IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 20TH SEPTEMBER 2007 / 29TH BHADRA 1929

Bail Appl..No. 5534 of 2007()

CRIME 165/07 OF PERUMPADAPPU POLICE STATION

: PETITIONER/A1:

HAKKIM, AGED 28,
S/O. HASSAN, KARYADATH VEEDU, DUBAIPADI,
PALAPETTY P.O., PONNANI TALUK.

BY ADV. SRI.C.P.UDAYABHANU
SRI.M.ANIL KUMAR
SMT.PREETHI K.PURUSHOTHAMAN
SMT.C.SUCHITHRA

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE S.I. OF POLICE, PERUMPADAPPU
POLICE STATION (CRIME 165/07), REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.5534 of 2007

Dated this the 20th day of September, 2007

ORDER

Application for anticipatory bail. The petitioner is the husband of the defacto complainant. The allegations are raised against him of matrimonial cruelty of the culpable variety punishable under Section 498 A I.P.C. The F.I statement was lodged by the defacto complainant when she was admitted in the hospital. The marriage had taken place in 2003. The spouses are blessed with two children. The wife complains that the husband had bela loured her mentally and physically. Demands were made to bring in more money and wealth from her parents. The petitioner had allegedly beaten her with hands. She had reported that fact to her brother. He had come and taken her to the parental home. On the next day, she was admitted in the hospital and it is there that the complaint has been filed. The case diary has been perused by me. In the peculiar nature of the facts and circumstances of this case, the wound certificate has been perused. There is no injury as such. There is tenderness noted by the Doctor.

2. The learned counsel for the petitioner prays, the learned Public Prosecutor does not oppose the said prayer and I am satisfied in the facts and circumstances of this case that anticipatory bail can be

granted to the petitioner. I reckon the stand taken by the learned Public Prosecutor as reasonable, as I take note of the reality that arrest and detention of the petitioner is likely to mar all possibility of reconciliation in the matrimony. I do also take note of the fact that there is no injury corresponding to the alleged physical cruelty inflicted by the petitioner. At any rate, I am satisfied, that subject to appropriate conditions, anticipatory bail can be granted to the petitioner.

3. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioner shall appear before the learned Magistrate at 11 a.m on 27.09.2007. He shall be enlarged on regular bail on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on 28.09.2007 and 29.09.2007 and thereafter between 10 a.m and 12 noon on all Mondays and Fridays for a period of two months. Subsequently the petitioner shall make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if those directions were not issued at all;

iv) If the petitioner were arrested prior to his surrender on 27.09.07 as directed in clause (1) above, he shall be released from custody on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 27.09.07.

(R.BASANT, JUDGE)

rtr/-